Confidential No. D

Secrt. II-87—45,000—25-11-35.

Revenue (193) Department.

Ms SERIES.

G.O. No. 2190 (Confdl)

DATED 27.10.37.

146 E

[Despatch Abstract.]

Public Servants - (South Kanara)
Palli Beari Sahib Bahadur - In -
Moneyar, Amundvi vs Candu -
Seniority in the Grade of Dy Tahr.
Orders passed - Rule 12(a) A General
Rules - Relaxed.

C.F. 31—13,206—14-12-35.

Revenue **DEPARTMENT.**

CURRENT No. 2004 F

Received 1 7 37 19 *Registered* 11 MAY 1937 19

Subject. Palli Peari Sahib,U.- (South Kanara) - Monegar, Amindivi islands and officiating Stationary Sub Magistrate - Karkal - Seniority in the grade of Deputy Tahsildar - Appeal.

Reference No. D.2376 Confdl./37-1.

Station Madras, *Dated the* 8th May 1937. 19

From

F.S.Brislee Esq., I.C.S.,

Secretary,

Board of Revenue.

J.F.Hall Esq., C.S.I., C.I.E., O.B.E., I.C.S.,

Commissioner of Land Revenue.

Read the following:-

Letter from T.A.Varghese Esq., I.C.S., Collector of South Kanara, D.Dis.No. 1736/37, dated 2nd May 1937.-

---

I submit herewith the appeal petition, dated 25th March 1937, filed by U.Palli Peari Saheb, Monegar, Amindivi islands and now officiating Stationary Sub Magistrate, Karkal, against the Board's Proceedings Routine Confdl. No. 4981, dated 14th October 1936.

2. The facts of the case have been dealt with in this office reports, D.Dis. 3780/36, dated 10th August 1936 and Ref. C.No. 54/Confdl.36, dated 18th September 1936 in reply to Board's Confdl. Ref. No. 567/36-1, dated 5th September 1936

which may be kindly perused. A brief history of the case is given below:-

The petitioner was first appointed to act as Monegar, Amindivi islands, on 25th April 1928 in a leave vacancy of 6 months. He acted for about 6 months and thereafter worked continuously from 22nd April 1930 to 31st March 1934. K.Abdul Gafoor Saheb, who was far senior to the petitioner, was appointed as Deputy Tahsildar on 29th April 1932 in the 2nd turn allotted to Muhammadans under the communal rotation rule. The petitioner secured the 9th turn allotted to Muhammadans. But, he was actually entertained as Deputy Tahsildar after the 10th 11th and 12th places under the communal rotation had been filled up on the ground that no Muhammadan was available for appointment at the time when the 9th turn had fallen due. Messrs. Solomon Joshua and H.Sunder Rao (over whomthe petitioner clairs seniority) were appointed as Deputy Tahsildars in the 11th and 12th turns, respectively, in March 1934 in preference to the petitioner who was considered not "available" for appointment then. The petitioner was first appointed to officiate as Deputy Tahsildar on 7th October 1934. Hence he was considered junior to both Messrs. Solomon Joshua and H.Sunder Rao.

p/o 9-12 y (G)

4. The petitioner contends that he was available for appointment at the time when Messrs Solomon Joshua and H. Sunder Rao were appointed as Deputy Tahsildars. This point has been explained in this office report, Ref. C.No. 54/Confdl.36, dated 18th September 1936 (in reply to Board's Confidential reference No. 567-36-1, dated 5th September 1936) as well as in this office note, dated 9th September 1934 and in the Collector's order thereon contained in this office file D.Dis. 37 Confdl. 34, dated 13th October1934. According to paragraph 7 of G.O. No. P.2060 Rev., dated 8th October 1929, the Amindivi Monegar has to put in 5 years' service on the Islands before he can be brought back to the Mainland for any post. The petitioner had acted as Monegar for a period of 6 months and

A

pp 3-4 y (E)

< pp 9-12 y (G)

(G)

p 15-y (X)

10 days in a leave vacancy in 1928. The question is whether this service put in by him prior to the issue of the above (α) G.O. counts towards the prescribed period of 5 years. Exclud this service, the petitioner had not completed his 5 years' course on the Islands at the time of the appointment of Messrs. Solomon Joshua and H.Sunder Rao. The petitioner, however, contends that the G.O. in question does not contempl the exclusion of his service in 1928 from the maximum period of 5 years prescribed. The point was decided against the appellant by my predecessor who dealt with the question.

See P. 15 ante.

****

REFERENCE:

Submitted to the Government.

2. The ground on which the petitioner's appeal to the Board was rejected are set out in R.P.Routine 4981 Confdl., dated 14th October 1936 (copy enclosed).

P. 5 ante

This is a second appeal against the Collector's order and there is no provision in the rules for a second apreal.

The Board has no recommendation to make on behalf of the petitioner.

Secretary.

To the Secretary to Government, Revenue Department,

with a petition and records as per list.

(will follow.

s.s./10-5-37.

105

17/5/37

5

Copy of B.P. Routine No. 4981 Confdl., dated 14th October 1936.-

Palli Beari Sahib, U.- (South Kanara) - Monegar, Amin Divi Islands and Officiating Stationary Sub-Magistrate, Coondapur - Seniority in the grade of Deputy Tahsildar - Petition - Rejected.

Read the following:-

Letter from the Collector of South Kanara, D.Dis. No. 3780/36, dated 10th August 1936

II.

Letter from the Collector of South Kanara, Ref. C. No. 54 Confdl.,36, dated 18th September 1936.

RESOLUTION:

The Board observes that the appointments of M.R.Ry. S. Joshua and H.Sundara Rao to act as Deputy Tahsildars were made on 31-3-1934. If the petitioner was aggrieved by those appointments he should have preferred an appeal to the Board soon after that date or in any case immediately af the Collector has passed orders on 20-2-36 rejecting his request to treat him as senior to the above two officers. Th present petition is thus long out of time and the Board sees no reason to interfere. The petition is rejected.

(True extract).

(Sd.) F.R.Brislee

Secretary.

To the petitioner, through the Collector of South Kanara.

To the Collector of South Kanara, with records as per list.

.....

List of records - Board's Ref. D.2376-37-1 Confdl., dated 8th May 1937.

(G) 1. D.Dis. 37 Confdl.34, dated 13-10-34. ✓

(H) 2. D.Dis. 1480/36, dated 9-4-36. ✓

(C) 3. D.Dis. 3780/36, dated 10-8-36. ✓

(E) 4. D.Dis. 54/36, Confdl. dated 22-10-36. ✓

(L) 5. D.Dis. 27/32 Confdl., dated 17-7-32. ✓

(N) 6. D.Dis. 10185/30, dated 7-11-30.

To

The Secretary to Govt. RD

17.5

4/9

TO

THE SECRETARY TO THE GOVERNMENT,
REVENUE DEPARTMENT,
Fort St. George,
M A D R A S .

T h r o u g h

The Sub-Collector,
Coondapoor Division.

1862-A-37

The Collector of South Kanara
and
The Hon'ble the Board of Revenue,
M a d r a s .

Humble petition of U. Palli Beari,
Monegar, Aminidivi Islands and
Officiating Sub-Magistrate, Karkal,
Dated 25th March 1937.

Most Respectfully Sheweth:-

The petitioner named above most humbly and respectfully begs leave to approach the Government, With this appeal against the Proceedings of the Hon'ble the Board of Revenue (Land Revenue) Routine Confidential N.O.4981 dated 14th October 1936 (enclosed) rejecting the petitioner's request claiming seniority over Messrs.Solomon Joshua and H. Sundara Rao who were appointed as Officiating Sub Magistrates before the petitioner, contrary to the rules of Communal rotation.

2. The petitioner begs to submit that his

main grievance is that he being a Muslim was not appointed as a Deputy Tahsildar in a Muslim's turn according to the Statutory rules of communal rotation but that members of other communities were appointed in preference to him, though he was fully qualified and available at the time. The result was quite detrimental to the petitioner's interests as the two officers named above superseded him and have become his seniors.

3. Having failed to secure any redress in the matter, the petitioner approached the Board of Revenue; but unfortunately for the petitioner, the Board was not pleased to go into the merits of the case and the petitioner's appeal was rejected on a technical ground that it was out of time. As regards the delay, the petitioner would humbly submit, that he orally urged his claims before the then Collector in April 1934 immediately after the appointment of Messrs.Joshua and Sundara Rao as Deputy Tahsildars, when the Collector told him that the appointments having already been made, he would be given the next vacancy. The petitioner therefore then went on leave and he was appointed to act as Sub-Magistrate in October 1934. In December 1934 the acting vacancies of both Mr. H. Sundara Rao and the petitioner ceased and the petitioner again went on leave. On 15-1-1935 the petitioner was appointed to act as Sub-Magistrate in preference

11 3

to Mr. Sundara Rao. But when the latter petitioned to the Collector, he was appointed to act as Sub-Magistrate in that vacancy and the petitioner was reverted to his permanent post on 1-2-1935. Thereupon the petitioner again approached the Collector with a petition requesting to restore him to the proper place in the communal rotation. But the Collector declined to grant the request on 20-2-1935.

Records of L. Dis. 669/35 already destroyed

4. The petitioner begs to submit that he would certainly have preferred an appeal to the Board against the order of the Collector passed on 20-2-1935 rejecting his request to treat him as senior to the above two officers. But the petitioner then saw no reason to prefer such an appeal against the said order of the Collector, as he was immediately appointed to act as Sub-Magistrate, On 1-3-1935 in preference to Mr. Joshua who was reverted to his permanent place as Head-clerk of the Taluk Office, Karkal. Mr. Joshua was again appointed to act as Sub-Magistrate in the next vacancy which occurred on 27-6-1935. The petitioner was therefore under the belief that he was given seniority over Mr. Joshua. Under the circumstances, it is submitted that there was no occasion for the petitioner to prefer any appeal to the Board against the Collector's Order dated 20-2-1935. It was only in March 1936, when the petitioner was given to understand that he was not given

× Records of 1st order L. Dis. 669/35 since destroyed.

seniority over those two officers, he submitted a petition to the then Collector requesting to reconsider his case. When the Collector declined to grant the request, the petitioner approached the Board of Revenue with an appeal on 15-7-36. Apart from this, the petitioner relied at the same time, on the practice of the Board of reviewing **suo moto** all such appointments in due course. He was further strengthened in this belief by the fact that in 1932 the Board while reviewing suo moto the appointments of Deputy Tahsildars, set aside the appointment of one Mr. Keshava Kuduva who was appointed as acting Deputy Tahsildar in 1930, agains the rules of Communal rotation and the Board was pleased to order the appointment of members of other communities according to the Statutory rules and further ordered that Mr. Keshava Kuduva should start probation afresh. In view of these facts, the petitioner respectfully begs to submit that the Government may be graciously pleased to condone the delay even if there is any, and render justice to the petitioner, if the Government find on a kind perusal of the facts set forth below that — as the petitioner firmly believes - he has a real case on merits according to the statutory rules governing the appointments by Communal rotation to the cadre of Deputy Tahsildars.

5. The petitioner begs to submit that the main facts of his case are as follows:-

The petitioner was appointed as

Monegar of Aminidivi Islands on 25-4-1928 and he was fully qualified for the post of Deputy Tahsildar at that time. He has reason to believe that his name was included in the approved list of Deputy Tahsildars in 1931. In April 1931, a non-Brahmin was appointed to act as a Sub-Magistrate passing over the turn of the Muhammadan Community apparently because there was no other qualified Muslim candidate available at that time. In April 1932 when another vacancy occurred in the post of a Deputy Tahsildar and when it was the turn of a Muslim to be appointed, the petitioner pressed his claims before the then Collector who told him that he should wait till he completed 5 years' service on the Islands, as there was no competent person among the Muslim subordinates to take up the place of Aminidivi Monegar. In this vacancy, Mr. Abdul Gaffoor who was then qualified was appointed to act as a Deputy Tahsildar.

6. The petitioner submits that even thereafter his claims were successively ignored for appointment as Deputy Tahsildar when a turn of a Muslim came and when a qualified Muslim was available in the person of the petitioner. To make the point clear, the petitioner appends below a statement showing the names of the individuals of the respective communities in the communal rotation appointed to the posts of

Deputy Tahsildars and Sub-Magistrates.

Place and name of the Community in the Communal rotation.	Name of the individual appointed.	Date of appointment.
1. Non-Brahmin.	Mr.J.S.Suvarna. (Non-Brahmin)	Not known.
2. Muhammadan.	Mr.B.Ganapathy. (Non-Brahmin).	14-4-1931.
(A Non-Brahmin was appointed for a Muhammadan turn, there being no other qualified Muslim available except the petitioner).		
3. Non-Brahmin.	Mr.Abdul Gaffoor. (Muhammadan).	29-4-1932.
4. Anglo-Indian or Christian	Mr.T.D.Valiath. (Christian).	11-4-1931.
5. Brahmin.	Mr.Keshava Kuduva. (Brahmin)	29-4-1932.
6. Non-Brahmin.	Mr.B.Ganesh. (Non-Brahmin)	1-6-1933.
7. Member of the Depressed Classes.	-....	....
8. Non-Brahmin.	Mr.M.B.Shanker Rao.	5-6-1933.
9. Muhammadan.	U. Palli Beari. (Muslim-Petitioner)	7-10-1934.
10. Non-Brahmin.	Mr.U.Janardhana. (Non-Brahmin).	3-1-1934.
11. Anglo-Indian or Christian	Mr.Solomon Joshua. (Christian).	4-4-1934.
12. Brahmin.	Mr.H.Sundara Rao. (Brahmin)	4-4-1934

The petitioner was appointed to act as Sub-Magistrate only on 7-10-1934 after several members of other communities over-stepped him in service contrary to the rule of communal rotation. The

The reason advanced for passing over the petitioner's claims, was that he had not put in 5 years' service as Monegar of Aminidivi Islands as required in a G.O. and was therefore regarded as not available for appointment. The petitioner, however, completed even this 5 years' service as Monegar of Aminidivi Islands as required under the said G.O. on 28-3-1934, as particularised below:-

	Y.	M.	D.
From 25-4-1928 to 3-11-1928 ..	0	6	8
-do-20-4-1929 to 6-11-1929 ..	0	6	16
-do-22-4-1930 to 28-3-1934 ..	3	11	6
Total ..	5	0	0

The services from 25-4-1928 to 3-11-1928 which comes to 6 months and 8 days relates to the period prior to the receipt of the G.O. prescribing the service of the Monegar to 5 years. Since the G.O. in question does not contemplate that the service prior to its issue should not be counted towards the maximum period of 5 years prescribed, the petitioner ventures to submit that he had completed his 5 years' service as Monegar of Aminidivi Islands on 28-3-1934. Even granting that the petitioner could not, in view of the G.O. be appointed, at least the vacancy that immediately occurred after the date of his completion of 5 years' service on 28-3-1934 (viz., the vacancy in which Mr. Solomon Joshua (Community No.11) was appointed) ought, in justice

to the petitioner, to have been given to him as the Muslim's turn in the 9th place had not gone to a Muslim. The petitioner was present on the mainland when the 9th and 10th vacancies given to Messrs. Solomon Joshua and H. Sundar Rao occurred in April 1934. But unfortunately for the petitioner, even one of the vacancies was not given to him.

pp. 10-12 ante (G)

8. The petitioner need hardly submit that the order insisting on 5 years' service on the islands has worked highly prejudicial to the petitioner's prospects especially when it is seen that he was the only Muslim candidate in the District fully qualified to be appointed as a Sub-Magistrate when the first turn of a Muslim in the Communal rotation arose in 1931. But for the insistence of 5 years' service on the islands, the petitioner would have been in Mr. Ganapathi's place to-day. The petitioner, however, realises that it is now too late in the day for him to contest the propriety of either Mr. B. Ganapathi's or Mr. Abdul Gaffoor's appointments as they have since been confirmed as Sub-Magistrates. The petitioner would therefore urge his claims only to a vacancy that ought to have gone to a Muslim in the 2nd turn (i.e., the 9th appointment) made according to the Communal rotation — the vacancy that was given to Mr. Solomon Joshua in April 1934 after the petitioner completed his 5 years' service on the islands and when the petitioner was available on the mainland.

p. 14 ante

9. The petitioner's case briefly summed up is that he was fully qualified and ripe for promotion to the Deputy Tahsildar's post, when the turn of a Muslim came for appointment in the communal rotation, that he lost the 2nd and 9th places in the Communal rotation, that in passing over his claims, the G.O. prescribing 5 years' service as Monegar of Aminidivi Islands, was relied upon, that he completed that 5 years' service on 28-3-1934 and that even afterwards when two vacancies occurred after this date, those vacancies were conferred upon Messrs.Solomon Joshua and H. Sundara Rao early in April 1934, in preference to the petitioner, though his appointment was overdue, according to the rule of communal rotation, he being the only qualified Muslim candidate available at the time. In this connection, the petitioner would crave permission to point out that the appointment of Mr. H. Sundara Rao, made earlier in about October or November 1933, in contravention of the rule of Communal rotation was held to be irregular by the Government and the recovery of his pay waived. The repeatedly passing over of the petitioner's claims had adversely affected his prospects, so much so that he has not even completed his probation yet and his acting appointment as Sub-Magistrate ceased on 19-11-1936, for want of a vacancy, while Messrs. S. Joshua and H. Sundara Rao continued to act as Sub-Magistrates. The petitioner submits that if his turn had not been passed over at least in April 1934 when he had

completed 5 years' service on the islands, both these officers would not have superseded him and he would not have been reverted on 19-11-1936 entailing thereby a break in his probation.

10. The petitioner further submits that had he remained on the mainland itself, he stood a good chance of being appointed as a Deputy Tahsildar much earlier when the turn of Muslim came, as there were no other Muslim qualified candidates available for the post. Such being the case, the petitioner need hardly submit how unfortunate he has been that his service as Aminidivi Monegar for 5 strenuous years - when on one occasion he and his family narrowly escaped death when the boat carrying them to the islands, got wrecked in a terrible storm on 10th May 1930 - should have, instead of counting as an additional qualification for accelerating his promotion, operated against him even in securing it in his usual turn as a Muslim. The petitioner feels that he has every claim on the sympathy of the Government.

11. In conclusion, the petitioner most respectfully and humbly prays that the Government may on a kind consideration of all the facts set forth above, be graciously pleased:-

(i) To restore the petitioner to his proper place in the Communal rotation by giving him seniority over Messrs.Solomon Joshua and

19 4

11 - 13

H. Sundara Rao.

(ii) To declare his service as III Class Magistrate as Aminidivi Monegar, or a part of it, to count towards his probation in the grade of Deputy Tahsildar, as the status of the Monegar is that of Deputy Tahsildar, as appears on page 36 of Mr.Ellis Island Manual, so that Messrs.Solomon Joshua and H. Sundara Rao may not also suffer in their service as Sub-Magistrates.

For which act of kindness and justice the petitioner, shall ever remain grateful.

COLLECTOR'S OFFICE No. 12 APR 1937 SOUTH CANARA

25.3.37.

Petitioner.

I 11.4.37

A2-1786-37.

R.Dco 1862-37

Submitted to the Collector of South Kanara.

M. Venkatarao 9.4.37.

Rev. Dot Officer

A2 31-3-37

Above Tracks 17 7/6

25

Rev. Dept.

On no 2004/37-1 of 7.6.37

Palli Beari Sahib
Lt. (South Kanara) -
Manager, Amindivi Islands
and offg Stationary Lt.-Instr.
temporarily in the grade of Dy
Taly. Domicile Board of
Rev, KRS, Ry No. A 2376
Conf. /37-1 of 8-5-37.

Appl - 3 Cr

With ref to para 7 of G.O. 2060 Rev dt 8-10-29,
the Board of Rev:
is requested to report whether
in actual practice Amindivi
Islands ~~are~~ as Manager
for a period of five years
is Compulsory or whether
five years is the period
ordinarily to be served.

To
The Bd of Rev, KRS.

Rev Dept
25-5-37 ~~31-5-37~~
16-37

7/6

Despd
HF
7/6.

25

Confidential: Revenue DEPARTMENT.

C.F. 31—13,206—14-12-35.

CURRENT No. 2745 F

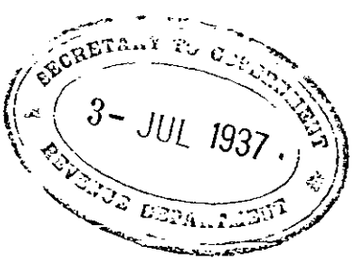
Received _____ 19 . *Registered* 5-7- 1937

Subject. 7h M

Palli Beari Saheb U.- (South Kanara) - Monegar - Amindivi islands and acting Stationary Sub-Magistrate, Karkal - Seniority in the grade of Deputy Tahsildar.

Confdl. Ref. No. 2376-37-3.

Station Madras, *Dated the* 2nd July 1937 19 .



From

F.R.Brislee Esq., I.C.S.,

Secretary,

Board of Revenue.

J.F.Hall Esq., C.S.I., C.I.E., O.B.E., I.C.S.,

Commissioner of Land Revenue.

Read the following:-

Letter from M.R.Ry. Rao Bahadur M.V.Vellodi Avl., B.A., Collector of South Kanara, D.Dis. 2892/37 (Confdl.), dated 24th June 1937.-

Ref.- Board's Ref. No. D.2376/37-2, dated 12th June 1937.

With main file Put to Sub-file on 4-8-37. (CM 2004/37)

After the issue of G.O. No. 2060, (X) Revenue, dated 8th October 1929, there was only a single instance in which the rule prescribing the limit of 5 years for the Monegar's tenure of office on the Amindivi Islands could be applied and that was in the case of the appellant (Palli Beari Saheb) himself. However, this office report D.Dis. 9839-28 dated 2nd June 1929, leading to the issue of the G.O.

M 10-8-37 (X)

would show that the five years' limit sugrested was intended to be the minimum and not the maximum period.

vide para 4 of notes at pp 5-6 NF.

REFERENCE:

Submitted to the Government with reference to their Memorandum No. 2054 F/37-1, Rev., dated 7th June 1937.

9 - [illegible]

Secretary.

To the Secretary to Government, Revenue Department.

s.s./8-7-37.

Rs dear

Tours

The file containing the fort memo dt 7.6.37 mentioned above was sent to Pub(Ser) for remarks vide Revenue no 2054 F/37-2 dt 10.6.37. This might send to them duplicate in Communication.

9/7 Pub (Ser).

Revenue.

2745 P/37-1

9-7-37

Rev. Dept.

Palli Beari Lahib U – (Santa Kanara)
Manager, Municipal Roads and
P.S. S.H. – Seniority within Grade of Dy Tah
Petition.

(B-IX)

Cw 2004/37 Mp 1 - 3 Cis
Govt Bd of Rev, Lds, Reg. no. D. 2376/37-1
(Crpl) dy 8. 5. 37.

To Ld

Mean see the petition at top 9 - 19 Cis, and the remarks of the Chn of S. Kanara and the Board of Rev: at pp 1 - 3 Cis. The petition is a ~~repeated~~ representation by a junior servant against an order from which he has exercised a right of appeal to the Bd of Rev: under the rules regulating the conditions of his service and, as such, is liable to summary rejection under rule XVII (14) of the C. memorial rules. The Board also points out that there is no provision in the rules for a 2nd appeal

See p 21 Cis

Rule 70 of the Bombay Civil Rules (BR & A) Form 2 in the G.S.'s Form para 2 of Bd's Rpt at p 3 Cis

Therefore whether the petition will be summarily rejected. As per Rule 80, the draft order submitted below is for approval.

May be rejected

O/M
(recalled)

(25.5.37) 25/5

25/5

S

X 28

The Question is whether there has been
Absence in this case
There was some
Correspondence Regd. this
petition about a year
ago. If the case should
be examined with Regd.
to the Service rule. It will
also be examined
whether service in the
Police for 5 years is
Compulsory or whether
5 years is the period
ordinarily Required.

A

It seem to be quite
that on 5 years should be
deemed as 5 yrs. Because
of absence on the Police
or Escort.

B

C

Ans 5

Sd
21.5.37

To Ld

'A' above. The correspondence referred to is presumably that contained in folio 2847 Regd 29.11.35, in which orders were passed on the petition of the Personal Pay to Palli Bearers

(A1)

(with 3 parts)
(1 to 4)

Sahib. Please see the Coll's remarks
(A) at pp 5-8 ante for regarding the
circumstances of the petitioner's appoint-
ment. The petitioner's name was
p 8 ante (A) included in 1931 in the list of persons
eligible for appointment as Dy Talrs.
The rule of Communal rotation applic
to appointments to the Madras R. S. Servi
When a vacancy arose in the turn
pp 3-4 ante (E) allotted for Mohys, the Coll held that
the petitioner was 'not available' for
appointment as Dy Talr as the petr
had not at that time completed
the 5 year-period under the Standing Order
pp 3-4 ante (E). In Calculating the
5 yr-period, the period of 6 months
and 8 days served by the petr as
para 7 at p 15 ante & Rs 20 to Rs 80 x 25 (x) moneygar in 1928 (prior to the Conversion
of the moneygars post into a tenure post)
was not taken into account. The
reasons for ignoring it are given at
p 11 ante (B). They do not seem to
be convincing. It does not make
much difference whether service in the
post was put in (a) on Rs 100 or
on Rs 100-125 or (b) before or after
the period of tenure was fixed. The
rule of Communal rotation referred to

in reason (iii) of p 11 g/Bs, has also no bearing on the Case. It seems that the previous tenure of 6 months and 8 days should have been included.

2 Please see in this Connection rule 5-A. of the M.R.S.S. Rules, p 192 g/ Civil Manual Vol II (M 251 D) now rule 7 at p 2 of from WOSB Bulletin 17-6-37 (2) ... the Corrigenda ... to hold the pers to be 'absent on duty in a post' coming within this rule (as the post held by him was his permanent post) or whether duty in the managers post (which is a post included in his Dr Rev. Establ list g/ Kanara) Can be Considered to be deputation within the meaning of para 3(4) Pub (Ser) g/ 17-2-37. (M) In view of Govt's view at 'C' at p 2 ante, it seems that the principle laid down in this G/I might be applied to this Case and the Board allowed to place in the list which he would have held if he had been appointed by Taluk in his proper Communal turn. Pub(Ser) might be requested to advise. Item 20 x 37 g/ list Corrected upto 1-4- [illegible] returned to Revenue

3 Pub. Dept may also be requested to state whether the M.P.S. Comm.n should be Consulted before passing orders on this petition on its merits.

1

4 "B" supra: Please see the remarks in para 17 (b)(vii) at p.8 and in para 12 at p.12 of Govt No 2060 Rev/3 8.10.29, and the orders of Govt in para 7 thereof &c. The intention of the drafting officer seems to have been that the period of 5 yrs should be the maximum and that of the Colly should be the minimum. The drafting officer's recommendation was, ~~that~~ the post of manager should be held by one individual for a specific period, eg, five years. The manager who is allowed to remain on the island for an indefinite period like the late manager in this acquires tremendous influence and more or less governs the island by rule of thumb". The Colly recommended that "the incumbency should not be less than five years of which at least 4½ yrs should be actual service on the island. Otherwise there is real danger that the accelerated promotion to the manager's post will only be temptation for the holder in order to provide himself with a Rs 1000/- qualification and after a short

(X) p15 infra

p8 g(X)

para 12 at p12 g(X)

period in the post, he will [illegible] and endeavour to get a post on the mainland on a Rs 100/- basis which he would be most unlikely to get if he had remained in the Andaman mainland". In para 7 thereof, the Govt sanctioned the Admn's proposal that the manager's terms of office should be limited to a period of 5 yrs. The intention seems that at least 5 yrs in the period ordinarily be served. The Board might ask to report specifically on the point raised by the Secy at 'B' on p 2 above.

5. With refce to para 4 above, a draft on these lines is laid for approval. Pending the receipt of the Bd's reply, the file might be sent to Pub (Secy) for remarks with refce to paras 1 to 3 above.

Secta Advt
1.6.37
1.6.37

Para 4 above.

Unfortunately the notes to G.O. 2060 - S 8.8.29 do not give any indication of the Govt intention. The Govt however "sanctioned" the Admn proposal, which incidentally includes the suggestion that the manager should

p 15 g (X) + 'B' on p 3 g notes (c) (X)

'B' at p 3 ff g (X)

spend not less than 4½ years on the islands. This seems to indicate that the idea is that the five years leisure is compulsory. However the Board may be asked to report the actual practice

Rec'd. M. may issue as amended.

3. Pub (Ser) may see w.r.t. paras 16 & 3 of the Press note. (after issue)

* issued

AD 3/6

S.

Issue 5/6

Pub (Ser)

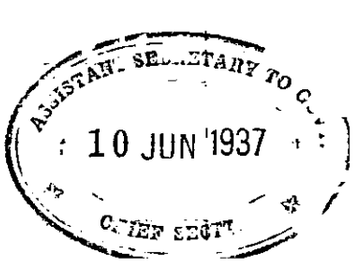
(issued as amended 7.6.37)

Revised Press Note 10.6.37

16629 10.6

(Seals)

A



X 35

Public (Ser) Deptt.

The petitioner Mr. U. Palli Beari Sahib permanent Monegar, Amindi Islands and Offg. Sub Magistrate in the South Kanara District requests (1) that he may be declared senior to two other Dy. Tahsildars in the District who were appointed earlier than he and (2) that his services as Manag involving the exercise of 3rd class magisterial powers may count towards his probation in the pos of Dy. Tahsildar. He served as Monegar of the Amindivi Islands for the periods noted below:

	Yrs.	m	d.
25-4-1928 to 3--11--28	0	6	10
20-4-1929 to 6-11-29	0	6	17
22-4-1930 to 31-3-34. (20.4.34 (under para 6 y(A))	3	11	9
	5	0	6 + 20 days

In para 7 of G.O.No.2060 Rev. dated 8-10-29 it was laid down that the monegar's tenure of office should be limited to a period of 5 years. On the ground that the petitioner had not completed 5 yrs service as monegar after the date of issue of the above orders fixing the ~~minimum~~ tenure of the post, the Collector did not appoint the petitioner in the muhammadan turn for Dy. Tahsildars which arose on 4-4-34. The petitioner was treated as not available for appointment and a member of another community was aprointed in another vacancy on the same date viz. ,4-4-34. The petitioner says that he had completed 5 yrs. on the Island including his service in 1928 and 1929, that he was actually

Another candidate belonging to a different community was also appointed

in the mainland when the vacancies arose and that he ought not to have been treated as not available in th turn for muhammadans but should have been appointed in preference to the two others. The petitioner was included in the Dy. Tahsildar's list in 1931 and the Board stated in another ~~communication~~ connection that but for his appointment as Monager, the petitioner had every chance of being appointed as Dy. Tahsildar in one of the Muhammadan turns which arose on 29-4-32 and 6-11-33 and that he would have been continued as an officiating Dy. Tahsildar at least from 4th January 1934. Whether or not the 5 yrs service on the Island should include the service put in by the petitioner as monegar before the issue of the G.O. fixing the tenure of the post, it is submitted that the petitioner should not suffer for having been appointed as monegar on public grounds. The principle has since been statutorily recognised and the rules amended to the effect that a person who has been approved for appt. to a service by transfer from another service shall be appointed, although he is absent on leave or on foreign services or deputation, subject to the condition that on return to duty he satisfactorily completes the period of probation. Although ~~he~~ Mr Palli Beari Sahib was appointed later than the two others, it is stated he may be declared senior to them and he may be retained in preference to them in officiating vacancies and may be confirmed before them if his work is found satisfactory during the period of probation. the relevent

1 37

rules being relaxed for the purpose under sectic
24(5) of the Government of India Act, 1935. The
other request of the petitioner viz., that his
service as monegar may be counted for probatio
as Dy.Tahsildar cannot be complied with.
The Commission need not be consulted as it is not a disciplinary
The file maybe returned to Revenue.

13/7/37

Rev. Depn.

Tons.

Please see the notes from p2 Rev Depn
Pub(Secs) apparently agree with this
Depn that Palli Beari Sahib should be
allowed the place in the list of Tal
which he would have held if he
had been appointed by Taluq in his
proper Communal turn. It will be
observed from para 4 of this letter
at pp 7-8 of Govt. 2847 Revl dt. 11.11.35
that the proper Moham turn for the
appointment of Palli Beari Sahib was
the 9th turn mentioned at p14 ct in
which the M. Muhammadans was

para 2 at p4 supra
+ Pub(Secs) note at
pp 9-11 above

(A)

appointed. Palli Bemi Sahib however claims seniority over one Messrs Joshua and Sundara Rao and Public agree that he may be declared senior to these two persons. In view of his own request, the question of giving him seniority over Mr Gunasekara also need not perhaps be considered. Mr Gunasekara is still an acting S.S.M.

para 11(i) at pp 18-19 of Plaint 'A' on p 2 of file 28/7 pp 10-11 of same

vide list A II at p 22 of the establishment for S.K. Circular up to 1-4-37 (perhaps)

2 The relevant rules relating to the matters mentioned at 'K' above are the following:-

(i) rule 3 (f) of the Ceylon

p 6 of pamphlet (A)

---

rules for the Sub: Service relating to Discharge;

(ii) rule 3 (g) of those rules relating to re-appointment;

p 7 ibid

(iii) rule 11 (b) of those rules relating to Confirmation; and

p 14 ibid

(iv) rule 13 (a) of those rules relating to Seniority.

p 15 ibid

No rule in the R.S. Rules at (2) is attached

The orders whether the

rules like be relaxed as suggested by Pubs(Secy).

3 Subject to orders, a draft order is subd for approval. Pubs(Secy) may see before circulation.

Pubs(Secy)
30.7.37

There is no question of a wholesale relaxation of the rules immediately. It will be sufficient to relax the seniority rule (Rule 13) now. This in its turn will give Beani Sahib the chance to continue to officiate in preference to the Others who as all three will be probationers and the discharge or re-enlistment of probationers will be in the order with respect to juniority and seniority respectively. ~~Accordingly~~ Other rules will have to be relaxed

A / only if the Others who complete probation earlier than Beani and become approved probationers. If this event arises, Rules 3(f) & 3(g) may have to be relaxed if Beani Sahib is to be discharged & the services of he is not to be

B / vacancy arises after the Others who complete probation when Beani has not, Rule 11(b) will have to be relaxed

Needs relaxing to relaxation of rule in Govt. of India (Cash) Secy's 36 (I)

44/40

The Board should propose relaxation if 'A' or 'B' in the previous page arises. Revise draft accordingly

2. The draft will be sent to Pub (Ser) for perusal

Sd E/8

From 1322 Pub(Cypl) 2/7/37 Copy ack(S)
Recd 1 fr. Con 4581/37

Tour

A draft order is subd for approval.

1 Of the two acting Rly Talks over whom it is proposed to give seniority to the petr (viz Rly Sundara Rao and Solomon Asheva) Mr Sundara Rao has already completed his probation satisfactorily on 1-2-37. This does not ~~perhaps~~ primarily affect the question of relaxation of the rules as we have no information ~~whether~~ that the continuing or reversion ~~of~~ Confirmation will ~~not~~ arise for orders.

Re item (2) in list A II at page 22 of V. Ka and Madras list Corrected upto 1-4-37 (Strikes)

Re appointment before Rly Talk Beari completes probation.

3 The draft might be sent to Rlys for acceptance before Circulation.

Kdn 10.8.37 Wtn

Type the draft as amended.

Sd 11/8.

Tour

Typed and submitted.

Pub (Ser) may see w.r.t. the note at pp. 11-13 above. Sd 11/8

2 - It is presumed the file will have to be circulated to H.E.

Pub (Ser).

Kdn 11.8.37 Wtn

SECRETARY TO G... 12 AUG 1937 CHIEF SECTT.

Revised 20/7/37-4

(with the Seniority list)

Sd (Illegible)

~~15~~/41

Public, Deptt

Revenue notes of Public (S) at pp. 9-11 ante.

The draft order may be perused and the file returned to Rev

to R
15/8/37

This Public (Reforms) with ref: to para 2 of Rev Sec's note at p. 14 ante.

Public (Reforms) Department.

(XX)

Rev. 29757B

In paragraph 2 of his note on page 14 ante the Revenue Under Secretary presumes that this file will have to be circulated to H.E. the Governor. The draft order below relaxes rule 13(a) of the General rules for Subordinate Services in favour of Palli Beari Sahib, an officiating Deputy Tahsildar and commits Government to a possible relaxation at some future date of certain other rules also in his favour. The relaxation is to be made by the Governor under section 241(5) of the Government of India Act. The word "Governor" referred to therein is "Governor acting on the advice of his Ministers . There is no Secretariat Instruction which specifically requires that such cases should be circulated to H.E. the Governor. If, however, the Revenue Secretary considers that this matter is of sufficient importance to be submitted to the Governor he can do so under Instructions 4 and 6(22) of the Secretariat Instructions. Attention in this connection may also be invited to paragraph 1 of the Governor's Secretary note at flag (XX).

except in cases which involve his H.E's Special responsibility for safeguarding the legitimate interests of public servants as note below:-

GG
26/8

The file may be returned to the Rev. Deptt.

pp 13 to 18, 82 to 84

GG
26.8.37

P.T.O.

L&E 2/38

Section 241 (5) of the Government of India Act empowers the Governor to deal with the case of a public servant in such manner as may appear to him to be just and equitable. This section will cover cases where the Governor passes orders in the discharge of his special responsibility for safeguarding the legitimate interests of public servants. Such cases will fall in the "individual judgment" field and circulation to the Governor will be necessary under Instruction 6 (20) and (21) of the Secretariat Instructions. In the present case the relaxation of the service rules in favour of Mr. Palli Beari Sahib may involve some disadvantage to the other two men in as much as it may postpone the dates of their confirmation under the ordinary service rules. In the circumstances it may be safer to circulate the case to H.E. also.

All these orders should not be taken for granted but they need not be gone into now. C.R 19/9

As numbered (30) above, pls see this file

Pub(Sr) 28852-7/38

Rev.

Rev.

The note at pgs 9-14 above explains the case fully. The draft put up below is for approval.

2. The file may be circulated to H.M. Rev, the Hon Premier & H.E.

cir: 3.9.37 M.C.79

Hon Rev 15/9/37

Hon Pr C.R 19/9

H.E. E.26/0.

Governor's Secretariat.

Dr. B.Tirumal Rao, Civil Surgeon - Seniority - Fixed by relaxation of rule - G.O.1170,E & P.H.,dated 15.5.37.

In the G.O. quoted above, the seniority of Dr. Tirumal Rao in the Civil Surgeons' cadre was fixed by the relaxation of rule 9 of the rules relating to the Madras Medical Service (General Branch), as it was felt that a strict application of the rule would cause hardship to him. This relaxation has affected certain other members of the service. The safeguarding of the legitimate interests of Govt. servants is a special responsibility of H.E. the Governor under section 52(1)(c) of the Govt. of India Act, and in matters involving special responsibility H.E. acts in the exercise of his individual judgment. The proposal in the G.O. quoted above involved a matter falling within the field of special responsibility of H.E. and, as such, the case ought to have been circulated to H.E., before orders were issued, under Secretariat Instruction 6(31).

2. Again, the relaxation of the rule has been done by invoking the provisions of rule 12 of the Civil Services (Classification, Control and Appeal) Rules. In matters of this kind where relaxation of rules is proposed on account of hardship, it has been held by the Legal Department that it is inappropriate to invoke rul 12 of the Classification Rules, but that the relaxation should be done under Section 241(5) of the Govt. of India Act,1935, under which express power is conferred on the Governor to deal with the case of a Government servant in such manner as appears to him just and equitable.

G.T.B.
29.6.37.

E. & P.H.

G.S. U.O.474-1
29-6-37.

P.T.O.

Lok

E. & P.H. Department.

Please see the Governor's Secctt. note on pp. 1-2 ante. The instructions in para 1 thereof may be noted for future guidance. As regards para 2 the Pub(Ser) Dept. may be requested U.O. to say whether it is necessary to issue a correction to G.O.No.1170-P.H. dated 15-5-1937 substituting the reference to rule 12 of the Classification rules by a reference to section 241(5) of the Govt. of India Act,1935. The Legal Dept.'s opinion appears to have been expressed after the G.O. of 15th was issued.

M.T.D.
9.8.

C.H.M.
10.8.37.

Public (Ser). E.P.H.U.O.11672-1D1-PH
10-8-1937.

Public (Services) Department.

Please see para 2 of the Govr's Sectt. note at pp. 1-2 ante and portion marked S. above. A copy of the Legal Dept.'s note is submitted at flag (Q). It is stated that it will be inappropriate to invoke the provision contained in the Classification Rules to enable the Governor to grant a relaxation of rule specially as express power is conferred by section 241(5) of the Govt. of India Act on the Governor to deal with the case of a Govt. servant in such manner as may appear to him to be just and equitable. E.P.H. ask whether G.O.No.1170,P.H., dated 15-5-1937 in which a service rule was relaxed under rule 12 of the Classification Rules needs amendment and whether the relaxation should be made only under sec.241(5) of the G. of I Act. It is submitted that rule 12 of the Cl. rule is kept alive by section 276 of the Govt. of India Act as it is not inconsistent with the provisions of the Govt. of India Act. There seems therefore nothing illegal in the orders in G.O.No.1170 P.H.,dated 15th May 1937. No amendment of the G.O. seems necessary.

Not illegal; but inappropriate.
C.F.B. 12.8.37.

The file may be returned to E.P.H. Thro' Legal.

K.R. 11.8. C.F.B. 12.8.37. 28636/37-1.d/13.8.37.

Legal.
E.P.H.

65

REVENUE DEPARTMENT.

C.F.17.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT:—

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. Petition from U. Palli Beari Sahib Bahadur, No. .., dated 25-3- 1937.

" 2004-F/37 Board of Rev., (L.R & S) Ref.D., 2376-Confdl-37-1 " 8-5- 1937.

" _____ " --do-- Ref.D., 2376-Confdl-37-3 " 2-7- 1937.

Order Ms. ~~Resolution~~ ~~Book~~ No. 2190, dated 27. 6. 1937.

Confidential

plone

Mr + Draft

(M)

C a p2 NF

The Government observe that the principle that a person approved for appointment by transfer from one service to another, should not suffer in the matter of such appointment on account of his absence necessitated on public grounds, has been statutorily recognized by the Government in G.O.No.344 Public (Services), dated 17-2-1937. They consider that U. Palli Beari Sahib, ~~Raka~~ Monegar, Amindivi islands, should not suffer for having been appointed as Monegar, Amindivi Islands, and lose his

seniority among the officiating Deputy Tahsildars in the South Kanara district. Palli Beari Sahib, however, was not appointed to the post of Deputy Tahsildar under rule 3-A of the General rules for Subordinate services issued with the G.O. referred to above. In the circumstances, a strict application of the rule governing seniority will cause hardship to him. H.E. the Governor is accordingly pleased, in exercise of the powers conferred by section 241(5) of the Government of India Act, 1935, to relax in favour of Palli Beari Sahib the provisions of rule 13(a) of the general rules for the subordinate services and to direct that he should be treated as senior to Messrs. H. Sundara Rao and Solomon Joshua in the grade of Deputy Tahsildars in the South Kanara district.

(M)

2. From the annual list of establishments in the Revenue department in the South Kanara district, the Government observe that M.R.Ry. H. Sundara Rao

completed his probation as Deputy Tahsildar on 1-2-1937 and that M.R.Ry. Solomon Joshua will be completing his period of probation as Deputy Tahsilda: shortly. By reason of such completio they will be liable, under rule 3(f) o the general rules for the subordinate services, to be discharged for want of vacancies only after Palli Beari Sahib has been discharged and, on the occurrence of fresh vacancies, they will be entitled, under rule 3(g) of those rul to re-appointment before him. Moreov if a permanent vacancy arises before Palli Beari Sahib completes his probat: Messrs. Sundara Rao and Solomon Joshua (if the latter also completes his probation satisfactorily before Palli Bea Sahib) will be entitled under rule 11(b of those rules to confirmation in perference to him. The Government consider that if any of the contingenc indicated above arises, the relevant rules 3(f), 3(g) or 11(b) as the case

may be] will have to be relaxed in Palli Beari Sahib's favour. The Board is requested to apply for the relaxation of the relevant rules when any of those contingencies occurs.

3. In anticipation of the relaxation of the relevant rules, the Board is requested to instruct the Collector of South Kanara to give preference to Palli Bari Sahib [redacted] in the matter of discharge, re-appointment and confirmation when any of the contingencies indicated in paragraph 2 above arises.

4. The request of U. Palli Beari Sahib that his service as Monegar in the Amindivi islands should be counted for probation as Deputy Tahsildar is inadmissible under the rules and cannot be granted.

5. The petitioner is referred to the Board of Revenue for orders on his petition.

10/11/8.

To

The Petitioner through the Board of Revenue (para 5 only and encl.ret

The Board of Revenue (L. R & S) (with records as per list retd)

Copy to Public (Services)

Dispd. 29.10.8